

SENATE BILL 3840
By Person, Curtis

AN ACT to amend Tennessee Code Annotated, Title 16,
Chapter 2, Part 5, to authorize the creation of
certain judicial referee positions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 16, Chapter 2, Part 5, is amended by
adding the following as a new section:

§16-2-521.

(a)

(1) Any county in a judicial district may create in such district the
position of judicial referee as provided in this section.

(2) If the judicial district is a multi-county district, any county within
the district may create such position or one (1) or more counties in the
district may combine to create such a position.

(b)

(1) Unless state funds are specifically provided for a judicial
referee position or positions by the general appropriations act, any such
position created pursuant to this section shall be fully funded by the
county or counties creating it.

(2) The amount of annual compensation for any such position
created shall be determined by the county or counties creating it, subject
to the availability of funding from either the state or creating county or
counties. Such creating county or counties shall also determine if:

(A) The position of judicial referee will or will not include benefits; and

(B) The position will be full-time or part-time.

(3) The jurisdiction of a judicial referee shall be confined to the county or counties funding such position. If state funds are appropriated for such a position or positions, the jurisdiction of each referee created shall be as provided in the state funding source.

(c)

(1) Each judicial referee created shall be employed by the state trial court judges in the judicial district in which the referee is located and the referee shall serve at the pleasure of the presiding judge of such district. The judges of the district shall also determine the number of hours per week the referee is required to work and, if the position is a part-time one, they shall also determine if such referee will or will not be permitted to engage in the private practice of law when not engaged in official duties.

(2) No full-time judicial referee shall be permitted to engage in the private practice of law.

(3) A judicial referee shall be required to be an attorney licensed to practice law in this state for at least two (2) years and who is in good standing at the time of employment. Before assuming the duties of a judicial referee as set out in this section, the referee shall take the oath set out in §17-2-120, and such oath shall be administered by the presiding judge of the district.

(d) With respect to criminal cases, the trial judge may direct that any of the following types of hearings or proceedings shall be heard in the first instance by the referee in all cases wherein the court has jurisdiction to hear the matter:

(1)

(A) Conducting any preliminary hearing or other non-dispositive proceeding, including, but not limited to, arraignments, bond hearings, setting conditions of release, and hearing any motion involving evidentiary matters.

(B) A referee has the same authority as the judge to issue any and all process. The referee in the conduct of proceedings assigned to the referee has the same powers as the trial judge.

(C) Upon the conclusion of any matter set out in this subdivision (1), the referee shall issue a ruling and a proposed final order. Either the defendant or the district attorney general may, within ten (10) days thereafter, excluding nonjudicial days, file a request with the court for a rehearing by the judge of such court. The judge may, on the judge's own motion, order a rehearing of any matter heard before a referee, and shall allow a hearing if a request for such hearing is filed as herein prescribed. Unless the judge orders otherwise, the recommendation of the referee shall be the decree of the court pending a rehearing. Any rehearing before the judge shall be conducted de novo.

(D) In case no hearing before the judge is requested, or when the right to a hearing is waived, the findings and proposed order of the referee become the decree of the court when

confirmed by an order of the judge. The final order of the court is, in any event, proof of such confirmation, and also of the fact that the matter was duly referred to the referee. A party may appeal such order as provided by law in criminal cases not heard by a referee.

(2)

(A) Accepting guilty pleas when a plea agreement has been reached by the district attorney general and defendant. If, in the opinion of the referee, the interests of justice so require, the referee may reject a proposed plea agreement submitted to such referee.

(B) If the referee accepts a plea agreement, the referee shall sign it and submit it to the trial judge with jurisdiction over the case.

(i) The trial judge may reject the plea agreement accepted by the referee. In the event the judge rejects the plea agreement, it is void and the defendant and district attorney general shall be notified. If another acceptable plea agreement cannot be reached, the judge shall set the case for trial as in other contested criminal cases.

(ii) If the judge accepts the plea agreement submitted by the referee, the judge shall also sign it. Upon acceptance by the judge, such judge shall impose sentence in accordance with the plea agreement, at which time it shall be final and binding. Appeals from plea

agreements accepted by a judicial referee shall be appealed as provided by law for other appeals of guilty pleas.

(e) With respect to civil actions, the trial judge may direct that any of the following types of hearings or proceedings shall be heard in the first instance by the referee in all cases wherein the court has jurisdiction to hear the matter:

(1)

(A) Hearing any preliminary or non-dispositive matter including pre-trial conferences, status conferences and motion hearings, including motions involving evidentiary matters.

(B) A referee has the same authority as the judge to issue any and all process. The referee in the conduct of the proceedings has the same powers as the trial judge.

(C) Upon ruling on any matter set out in this subdivision (1), the referee shall issue a ruling and a proposed final order. Any party to the action may, within ten (10) days thereafter, excluding nonjudicial days, file a request with the court for a rehearing by the judge of such court. The judge may, on the judge's own motion, order a rehearing of any matter heard before a referee pursuant to this subdivision, and shall allow a hearing if a request for such hearing is filed as herein prescribed. Unless the judge orders otherwise, the recommendation of the referee shall be the decree of the court pending a rehearing. Any rehearing before the judge shall be conducted de novo.

(D) In case no hearing before the judge is requested, or when the right to a hearing is waived, the findings and proposed order of the referee become the decree of the court when confirmed by an order of the judge. The final order of the court is, in any event, proof of such confirmation, and also of the fact that the matter was duly referred to the referee. A party may appeal such order as provided by law for civil actions not involving a referee.

(2)

(A) A judicial referee may also hear any of the following civil actions:

- (i) Uncontested adoptions;
- (ii) Uncontested divorces;
- (iii) Uncontested workers compensation cases;
- (iv) Contested or uncontested custody and support proceedings; and
- (v) Any other uncontested civil action or action in which all parties agree upon the result.

(B) The referee shall rule on any civil action set out in this subdivision (2) and shall prepare a proposed final order, sign it and submit it to the judge. The trial judge may accept or reject the proposed final order of the referee.

- (i) If the judge rejects it, the proposed order of the referee is set aside and the judge shall set the matter

rejected for hearing by the court on the court's regular docket.

(ii) If the judge accepts the disposition set out in the proposed final order, the judge shall sign the order. Upon acceptance by the judge, the proposed final order shall become the order of the court in such matter. Appeals from orders proposed by the referee and accepted by the judge shall be appealed as provided by law for appeals in civil cases.

(f) In conducting any hearing or otherwise disposing of any matter assigned to the judicial referee by the trial judge, the referee shall be governed by all applicable evidentiary and procedural rules as promulgated by the supreme court and ratified by the general assembly.

SECTION 2. For purposes of creating, funding and selecting the position of judicial referee authorized by this act, this act shall take effect on July 1, 2006, the public welfare requiring it. For purposes of any judicial referee so created and selected commencing with the duties set out in this section, this act shall take effect on September 1, 2006.